REMARKS

I. The Examiner's Rejections

In the Office Action dated February 17, 2006, the Examiner rejected pending claims 16-35 under the judicially created doctrine of nonstatutory double patenting over Claims 1-15 of U.S. Patent No. 6,693,276.

The Examiner also rejected Claims 16-35 under 35 U.S.C. § 103(a) as unpatentable over Franzen, United States Pat. No 5,818,055 (hereinafter "the '055 patent") in view of Bateman et al., United States Pat. No. 6,794,641 (hereinafter "the '641 patent"). According to the Examiner, the '055 patent discloses an ion packet injector comprising an ion source, a mass analyzer, and a traveling field device for transporting ions along a path. Importantly, however, the Examiner admitted that "J. Franzen [the '055 patent] fails to disclose that the ion packet injector comprises a pulser for packaging said ions, wherein said injector further comprises an ion reflector for reflecting ions received from said pulser onto a path toward the ion detector." However, the '641 patent was cited to show a mass spectrometer comprising a pulser. In the Examiner's opinion, it would have been obvious to substitute the mass spectrometer of the '641 patent into the system disclosed by the '055 patent.

II. The Examiner's Rejections Should be Withdrawn

A. Double Patenting Rejection

The Examiner rejected pending Claims 16-35 under the judicially created doctrine of nonstatutory double patenting over Claims 1-15 of U.S. Patent No. 6,693,276. In response, Applicants have filed a terminal disclaimer in compliance with 37 C.F.R. 1.321(c). Applicants respectfully submit that the double patenting rejection is traversed and request that this rejection

be reconsidered and withdrawn.

B. 35 U.S.C. § 103

1. The '641 Patent Is Not a Valid Prior Art Reference

Initially, Applicants respectfully submit that the '641 patent is not a valid prior art reference. The current application claims priority to United States Patent No. 6,693,276 which was filed on February 22, 2002. The '641 patent was filed on May 30, 2003, and claims priority to provisional application no. 60/421,764 that was filed on October 29, 2002. This provisional application also claims priority to two (2) foreign patent applications: GB 0212508, filed May 30, 2002 and GB 0308417, filed April 11, 2003. Accordingly, the earliest possible effective date for the '641 patent is May 30, 2002, after the priority date of the subject application. Accordingly, Applicant submits that the '641 patent is not a valid prior art reference and requests that the rejections based thereon be reconsidered and withdrawn.

2. No Prima Facie Case of Obviousness

In order to establish a prima facie case for obviousness under 35 U.S.C. § 103, for a claimed invention to be obvious in view of a combination of references, the prior art references, when combined, must teach or suggest all of the claim limitations. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); MANUAL OF PATENT EXAMINING PROCEDURE § 2143-2143.03. Applicants respectfully submit that the references do not teach or suggest, either alone or in combination, all of the claim elements of the presently amended application.

Independent Claims 16, 26, and 31 have been amended to include a pulser. The Examiner admits that the '055 patent "fails to disclose that the ion packet injector comprises a pulser for packaging said ions, wherein said injector further comprises an ion reflector for

reflecting ions received from said pulser onto a path toward the ion detector (Emphasis added)." Further, the '641 patent, which was cited by the Examiner to show this feature, is not a valid prior art reference as discussed above. Accordingly, for the Examiner's rejection to stand, the '055 patent must show each and every element of the claimed invention. Since the Examiner admits that the '055 patent fails to disclose each and every element of the present invention, the Examiner's rejection fails to establish a *prima facie* case for obviousness under 35 U.S.C. § 103. Accordingly, the Applicants respectfully request that this rejection be reconsidered and withdrawn.

CONCLUSION

Applicants submit that the specification, drawings, and all pending claims represent a patentable contribution to the art and are in condition for allowance. No new matter has been added. The claims have been amended merely to clarify the novel features of the current invention and are in no way related to patentability. Early and favorable action is accordingly solicited.

Respectfully submitted,

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